

E-Filed 4/22/09

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Case No. 5:03 CR 20010 RMW

Plaintiff,

ORDER DISMISSING
DISCOVERY MOTION

v.

KEVIN V. DUGAN,

Defendant.

THIS MATTER is before the Court on defendant Kevin V. Dugan's "Court Order for Disclosure Pursuant to Discovery Motion," filed April 16, 2009, which the undersigned construes as a motion pertaining to discovery matters. Since this case is currently on appeal to the United States Court of Appeals for the Ninth Circuit, the district court lacks jurisdiction to proceed with such a motion. *See United States v. Ortega-Lopez*, 988 F.2d 70, 72 (9th Cir. 1993) ("The filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). Defendant's motion is therefore dismissed.

IT IS SO ORDERED.

DATED: 4/22/09

RICHARD SEEBORG
United States Magistrate Judge